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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-493**

13 **AEDIN MAIRE FULTON, a.k.a. AEDIN**  
14 **MAIRE MCDERRMOTT**  
15 **171 Exeter Avenue**  
16 **San Carlos, CA 94070**  
17 **Registered Nurse License No. RN 510157**

**A C C U S A T I O N**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about March 29, 1995, the Board of Registered Nursing issued Registered  
24 Nurse License Number 510157 to Aedin Maire Fulton, a.k.a. Aedin Maire McDermott  
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to  
26 the charges brought in this Accusation and will expire on June 30, 2012, unless renewed.  
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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in relevant part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in relevant part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTORY PROVISIONS

7. Section 2761 of the Code states, in relevant part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

8. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

9. Section 2762 of the Code states, in relevant part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

• • •

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

## COST RECOVERY

10. Section 125.3 of the Code provides, in relevant part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

**FIRST CAUSE FOR DISCIPLINE**  
**(Unprofessional Conduct-Incompetence)**  
**(Bus. & Prof. Code § 2761(a))**

11. Respondent has subjected her Registered Nurse License to disciplinary action under Code section 2761, subdivision (a), in that while working as a Nurse Case Manager in 2009, she acted in an incompetent manner with regards to her care for Patient A. The circumstances are as follows:

12. Respondent worked for Pathways Home Health and Hospice (Pathways) as a Nurse Case Manager beginning in 1995 and worked approximately three days per week. Her job was to manage a caseload of approximately six to ten patients. Specifically, the job required Respondent

1 to coordinate hospice care, coordinate with the patient's social worker and home health aide,  
2 assess patients for symptom management, and administer medications. Respondent was also  
3 responsible for organizing her patient's medication boxes and, if she was not able to do so, to  
4 notify her supervisor. Further, Respondent was responsible for medication refills.

5 13. On or about November 2009, Patient A was under 24-hour care by the Institute on  
6 Aging/Older Adults Care Management (Institute on Aging) and Respondent was the Hospice  
7 Nurse Case Manager for Patient A.<sup>1</sup> At an initial meeting with the various health-care providers  
8 for Patient A, Respondent arrived one hour late and a Geriatric Care Manager (Geriatric  
9 Manager) from the Institute on Aging noticed that Respondent smelled of alcohol. While  
10 attending to Patient A, the Geriatric Manager observed Respondent take the vitals of Patient A's  
11 stuffed animal rather than Patient A. The following week, Respondent dropped off a hospital bed  
12 mattress--ordered for Patient A--with Patient A's caregiver (caregiver). Respondent apologized  
13 because the mattress was wet when she dropped it off. A short time later, the Geriatric Manager  
14 found the mattress drying in the sun and noticed that the mattress smelled of alcohol.

15 14. Patient A's caregiver told the Geriatric Manager that she had smelled alcohol on  
16 Respondent's breath on two different occasions when Respondent was visiting Patient A. The  
17 caregiver also explained that Respondent did not always show up for her scheduled visits with  
18 Patient A.

19 15. Because Patient A has sundowners, a syndrome associated with dementia, her  
20 physician ordered Zyprexa. The physician prescribed it to be administered only "if needed"  
21 because it is life shortening, but Respondent listed the medication to be administered daily. After  
22 a discussion with the Geriatric Manager, Respondent agreed that the Zyprexa should be  
23 administered only as needed and never more than once a day. However, Respondent failed to  
24 correct the written instructions for the medication and the Pathway notes continued to contradict  
25 to the physician's prescription. Further, Respondent failed to timely fill Patient A's weekly set of  
26 medications. When it was brought to her attention that Patient A's weekly medication needed to

27 <sup>1</sup> Pathways was contracted by the Institute on Aging to provide health care services to  
28 Patient A.

1 be refilled, Respondent stated that she was not aware of that. Ultimately, the medications were  
2 refilled by another nurse and not Respondent.

3 **SECOND CAUSE FOR DISCIPLINE**  
4 **(Unprofessional conduct--Under the influence of Alcohol)**  
5 **(Bus & Prof. Code § 2762(b))**

6 16. Respondent has subjected her Registered Nurse License to disciplinary action under  
7 Code section 2762, subdivision (b), in that while working as a Nurse Case Manager, she was  
8 under the influence of alcohol on several visits with Patient A. The circumstances are explained  
9 in paragraph 13 and 14, above.

10 **THIRD CAUSE FOR DISCIPLINE**  
11 **(Unprofessional conduct--Falsifying patient visits.)**  
12 **(Bus. & Prof. Code § 2762(e))**

13 17. Respondent has subjected her Registered Nurse License to disciplinary action under  
14 Code section 2762, subdivision (e), in that she documented in patient charts that she visited two  
15 patients on December 4, 2009, when she did not. The circumstances are explained below.

16 18. An administrator at Pathways reviewed the patient charts of two different patients  
17 under the care of Respondent for the week of November 28, 2009 through December 5, 2009.  
18 Respondent had documented in the charts of both patients that she had visited each patient on  
19 December 4, 2009. However, Respondent did not visit either patient on this day. Respondent  
20 admitted to falsely documenting on the patients' charts that she had visited on December 4, 2009.  
21 Respondent further admitted that she wrote the progress notes for the visits on December 4, 2009  
22 off of the previous visits and information she had from the patients.

23 **PRAYER**

24 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
25 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

26 1. Revoking or suspending Registered Nurse License Number 510157, issued to Aedin  
27 Maire Fulton, a.k.a Aedin Maire McDermott;

28 2. Ordering Aedin Maire Fulton, a.k.a. Aedin Maire McDermott to pay the Board of  
Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
pursuant to Business and Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: February 23, 2012

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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